



The Commonwealth of Massachusetts

In the Year Two Thousand and Eight.

AN ACT CLARIFYING CERTAIN BANKING LAWS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 168 of the General Laws is hereby amended by striking out section 9A, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 9A. The annual meeting of the corporators of such corporation shall be held at such time as the by-laws direct. Special meetings may be held by order of the trustees or upon written request of the 10 corporators addressed to the clerk who shall give notice of special meetings upon such order or request. In the absence or inability of the clerk to serve, the president or a vice president may give the notice or notices required by this section. At least 7 days before the date of such meeting, notice of the meeting shall be given by mailing to each corporator a written or printed notice thereof. The names of those present at meetings shall be entered in the records of the corporation. A quorum shall consist of not less than 13 incorporators or 25 per cent of the total number of corporators, whichever is the greater; provided, however, that not more than 50 corporators shall be necessary to constitute a quorum.

SECTION 2. Section 11 of said chapter 168, as so appearing, is hereby amended by striking out paragraph 3 and inserting in place thereof the following paragraph:-

3. Report of Payments. — The treasurer shall report at each regular meeting, in detail, all amounts paid by the corporation since the last regular meeting for services, fees or otherwise, to any member of the board of trustees and all increases in salaries of officers granted since the last regular meeting; and shall report annually, at the first regular meeting

of the trustees, following the annual meeting, the salaries, including bonuses if any, of all officers.

SECTION 3. Said chapter 168 is hereby further amended by striking out section 12, as so appearing, and inserting in place thereof the following section:-

Section 12. The corporation shall have a board of investment of not less than 5 members, who shall be trustees of the corporation. Only 1 of the persons holding the offices or performing the duties of president, executive vice president, senior vice president or treasurer shall at the same time be a member of the board of investment. The board shall elect a clerk who may, but need not be a member of the board. The board of investment may invite 1 or more trustees who are not members of the board to attend its meetings during the monthly, quarterly or semi-annual periods as the board may determine.

At least quarterly, the treasurer or other officer designated by the board of investment shall submit to the board of investment, a written report, over his signature, covering the period for which the report has not yet been submitted. The report shall be filed with the records of the meeting and shall be retained for a period of 6 years from the date of the meeting. The report shall cover the following transactions:

- (1) changes in investments;
- (2) changes in reserve or contingency accounts;
- (3) lists of the following loans, setting forth the total liabilities of the borrower to the corporation, both secured and unsecured:—

(i) loans in excess of \$50,000 each, overdue for more than 30 days, other than real estate mortgage loans, but for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, loans reportable in this category shall be those in excess of \$100,000, and for a bank with total assets in excess of \$10,000,000,000 as of its most recent call report, loans reportable shall be those in excess of \$1,000,000;

(ii) real estate mortgage loans on which interest is more than 6 months in arrears;

(iii) real estate mortgage loans concerning which any tax upon the underlying security has been paid by and not repaid to the corporations; and

(iv) all loans secured and unsecured, and discounts of any borrower including both direct and indirect liabilities made during which the period which brings aggregate liabilities of the borrower to an amount in excess of \$100,000, with annotation of any line of credit possessed by the borrower, but, for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, the reportable threshold amount of aggregate liabilities outstanding to a single borrower shall be the greater of \$500,000 or 1 per cent of undistributed capital and surplus.

Upon application in writing by the corporation, the commissioner in his discretion may waive or modify the list of transactions to be included in the report.

Meetings of the board of investment shall be held at least once in each month. A record shall be made at each meeting of the transactions of the board and of the names of those present.

SECTION 4. Section 13 of said chapter 168, as so appearing, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following 2 paragraphs:-

The president shall be a trustee. A vice president may perform the duties of the president to the extent authorized in the by-laws. The treasurer may at the same time be a vice president. A vice treasurer or an assistant treasurer may perform all the duties of the treasurer. The clerk shall be the clerk of the corporation and the trustees.

No operating officer of the corporation shall hold the office or perform the duties of president, vice president, cashier or treasurer of a national banking association or a trust company, and such operating officer shall be governed by the provisions of section 10 with respect to holding office in another savings bank or in a co-operative bank or federal savings and loan association.

SECTION 5. Said chapter 168 is hereby further amended by striking out section 15, as so appearing, and inserting in place thereof the following section:-

Section 15. Each person elected to office at the annual meeting or at any other meeting of the corporators or trustees, who is not present at the meeting at which he was elected shall be notified, in writing, of such election by the clerk of the corporation. Such notice

shall be sent within 10 days after such meeting to the last known address of such person. Within 60 days after the annual meeting, the clerk shall cause to be filed with the records of the corporation a list containing the following information: (a) the names of the incorporators indicating those who are trustees; and (b) the names of the president, vice presidents, treasurer, members of the board of investment, and members of the auditing committee referred to in section 16. A copy of said list shall be furnished to the commissioner within 10 days after filing with the records of the corporation.

SECTION 6. Section 11 of chapter 170 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The security committee shall perform such other duties as may be required by law, and exercise such other powers as may be delegated to it by the board of directors. At each meeting of the directors, the security committee or an officer designated by it shall submit a report consisting of a detailed written statement containing the following information for the reporting period running from the closing date of the last report through the end of the calendar month immediately prior to the date of the meeting at which the report is submitted, such report to be filed with the records of the meeting and shall be retained for a period of 6 years from the date of the meeting; such report shall include the following:

- (1) changes in reserve or contingency accounts;
- (2) a list of all loans completed pursuant to power delegated by the board of directors;
- (3) lists of the following loans, setting forth the total liabilities of the borrower to the corporation, both secured and unsecured:
 - (i) loans in excess of \$50,000 each, overdue for more than 30 days, other than real estate mortgage loans, but for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, any loans reportable in this category shall be those in excess of \$100,000, and for a bank with total assets in excess of \$10,000,000,000 as of its most recent call report, any loans reportable shall be those in excess of \$1,000,000;
 - (ii) real estate mortgage loans on which interest is more than 6 months in arrears;

(iii) real estate mortgage loans concerning which any tax upon the underlying security has been paid by and not repaid to the corporation; and

(iv) all loans secured and unsecured, and discounts of any borrower including both direct and indirect liabilities made during the reporting period which brings aggregate liabilities of the borrower to an amount in excess of \$100,000, with annotation of any line of credit possessed by the borrower, but, for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, the reportable threshold amount of aggregate liabilities outstanding to a single borrower shall be the greater of \$500,000 or 1 per cent of undistributed capital and surplus.

Upon application in writing by any such corporation the commissioner may waive or modify the information in clauses (1), (2) and (3) to be included in such report.

SECTION 7. Said chapter 170 is hereby further amended by striking out section 14, as so appearing, and inserting in place thereof the following section:-

Section 14. The commissioner shall have the same powers and duties in respect to co-operative banks which he has in respect to savings banks. At least once during each 12 months following their election, and more often if required by the commissioner, the audit committee, referred to in section 11, shall have an audit made of the balance sheet of the corporation and such other financial statements as it may prescribe.

The audit shall be made by an independent certified public accountant as set forth in the last paragraph of section 33 of chapter 13 in accordance with generally accepted auditing standards and in such form and manner and at such time within said 12 months as the audit committee may prescribe. Within 30 days after its election, the audit committee shall appoint an accountant and written notice thereof shall be given to the commissioner.

The accountant shall report in writing to the audit committee the results of the audit. At the next meeting of the directors thereafter, the audit committee shall render a report, which shall be read and be signed by the committee, stating the nature, extent and results of the audit and whether it accepts the accountant's report.

The audit committee shall file with the commissioner a copy of the accountant's report within 30 days after its receipt and maintain another copy with the records of the corporation. If the audit committee fails to have an audit as herein provided, the

commissioner shall have an audit made by an independent certified public accountant as set forth in the last paragraph of section 33 of chapter 13 in such form and manner as the commissioner may prescribe, and the expense thereof shall be paid by the corporation.

SECTION 8. The last paragraph of section 13 of chapter 172 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- An executive committee may take any action that could be taken by the board of directors except that an executive committee may not: (1) authorize dividends or other distributions to shareholders; (2) approve or propose to the corporation's shareholders actions that require the approval of the corporation's shareholders; (3) change the number of members of the board of directors, remove directors from office or fill vacancies on the board of directors; (4) amend the corporation's articles of organization; (5) adopt, amend or repeal the corporation's by-laws; (6) authorize or approve reacquisition of shares of capital stock, except according to a formula or method prescribed by the board of directors ; (7) take any action specifically required by law or regulation to be taken by the entire board of directors, or (8) approve a transaction described in section 38 of Chapter 172.

SECTION 9. Said chapter 172 is hereby further amended by striking out section 16, as so appearing, and inserting in place thereof the following section:-

Section 16. The board of directors shall meet at intervals, that shall not be less frequent than quarterly, but, upon application in writing by the corporation, the commissioner may waive or modify this requirement. Unless the articles of organization or the by-laws otherwise provide, members of the board of directors or any committee designated thereby may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting may simultaneously hear each other, and participation by such means shall constitute presence in person at a meeting. Members may transmit any written authorizations that may be required during the meeting by electronic facsimile or other commercially acceptable transmission. At intervals that shall not be less frequent than quarterly, the treasurer or any other officer designated by the board of directors shall submit to a meeting of the board of directors, or to a meeting of its executive committee, if

the receipt of such reports has been delegated by the board of directors to such committee, a written report, over his signature, for the period running from the closing date of the last report to a date not more than 18 days prior to the date of the meeting at which the report is submitted. The report shall be filed with the records of the meeting and shall be retained for a period of 6 years from the date of the meeting. The report shall provide a summary of the following transactions:

- (1) changes in investments;
- (2) changes in reserve or contingency accounts;
- (3) lists of the following loans, setting forth total liabilities of the borrower to the corporation, both secured and unsecured:

- (i) loans in excess of \$50,000 each, overdue for more than 30 days, other than real estate mortgage loans, but for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, loans reportable in this category shall be those in excess of \$100,000, and for a bank with total assets in excess of \$10,000,000,000 as of its most recent call report, loans reportable shall be those in excess of \$1,000,000;

- (ii) real estate mortgage loans on which interest is more than 6 months in arrears;

- (iii) real estate mortgage loans concerning which any tax upon the underlying security has been paid by the corporation and not repaid to the corporation;

- (iv) all loans secured and unsecured, and discounts of any borrower including both direct and indirect liabilities made during the period which brings aggregate liabilities of such borrower to an amount in excess of \$100,000, with a notation of any line of credit possessed by the borrower, but, for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, the reportable threshold amount of aggregate liabilities outstanding to a single borrower shall be the greater of \$500,000 or 1 per cent of capital and surplus.

Upon application in writing by any such corporation the commissioner, in his discretion, may waive or modify the list of transactions to be included in such report.

House, No. 4901

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